

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 42.4.2701, 42.4.2703,)
42.4.2704, and 42.4.2708 pertaining)
to the Qualified Endowment Credit)

TO: All Concerned Persons

1. On June 12, 2014, the Department of Revenue published MAR Notice Number 42-2-909 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1191 of the 2014 Montana Administrative Register, Issue Number 11.

2. On July 8, 2014, a public hearing was held to consider the proposed amendment. Robert Story, President of the Montana Taxpayers Association, appeared at the hearing but did not testify. Kurt Alme provided written comments.

3. The department has amended ARM 42.4.2701, 42.4.2703, and 42.4.2704, as proposed.

4. The department has amended ARM 42.4.2708 as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

42.4.2708 DETERMINING PRESENT VALUE FOR THE ENDOWMENT CREDIT (1) remains as proposed.

(2) As derived from the May 2009 IRS Publication 1457 titled "Actuarial Valuations," the life expectancy tables that shall be used when determining the present value for the endowment credit are as follows: life expectancy of the annuitant or joint life expectancy of the annuitants, within which the first partial or full-year payment of a deferred charitable gift annuity is required to begin in order for it to be deemed a planned gift for the purposes of 15-30-2327, MCA, are set forth in Tables 1 and 2.

(a) Example. The table indicates a 98-year-old annuitant has a life expectancy of 2.5 years. So the first partial year (such as a monthly, quarterly, or semi-annual payment), or full year payment mandated by the annuity contract, must be required to be paid no later than two and one-half years from the date the deferred annuity contract is created.

Table 1 and Table 2 remain as proposed.

5. The department has thoroughly considered the comments received. A summary of the comments received and the department's responses are as follows:

COMMENT NO. 1: Kurt Alme commented that the proposed amendments are helpful. He further commented that the language, as currently set forth, is not quite accurate and provided suggestions for the department to consider for further amending (2) and incorporating an example.

Mr. Alme explained that the present value of the endowment credit is determined from the 2000CM mortality table, referenced in Publication 1457, as are these life expectancy tables. The present value of the endowment credit is not, however, determined from the life expectancy tables. In fact, it should not even be necessary to state that the present value of the endowment credit is determined from the 2000CM mortality table since that present value is the amount of the federal charitable deduction which is required by federal law to be computed from Table 2000CM. Mr. Alme stated that the legislature added 15-30-2327(3)(b), MCA, last decade only for the purpose of establishing a single mortality table everyone must use when determining the maximum "stretch" of a deferred gift annuity.

RESPONSE NO. 1: The department thanks Mr. Alme for his comments and suggestions. ARM 42.4.2708(2) is further amended to better reflect the purpose for the life expectancy tables and an example has been added.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State August 25, 2014.